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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,046	02/04/2004	Thomas W. Schrimsher SR.	228-002.001 Shrock	3921

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/772,046	Applicant(s) SCHRIMSHER, THOMAS W.	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 20 April 2005 has been entered.

Drawings

2. The drawings are objected to because Figure 4 was not included with the drawing filed 04 February 2004. The specification refers to a Figure 4 in the Brief Description of the Drawings section. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

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the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 12-15 are objected to because of the following informalities:
 - a. claim 12, lines 12-13, "the latter between said supporting position and folded position" should read --said leg between said supporting position and said folded position--;
 - b. claim 13, line 2, "support means" should read --supporting means--;
 - c. claim 14, line 2, "support means" should read --supporting means--;
 - d. claim 15, lines 2-3, "support means" should read --supporting means--.Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,163,900 to Stevenson in view of U.S. Patent No. 3,675,965 to Burdett.

Stevenson discloses a seating that is basically the same as that recited in claims 12-16 except that the seating lacks an actuating link, as recited in the claims. See Figures 1-10 of Stevenson for the teaching that the seating has a seat frame (Fig. 2), a back frame (Fig. 2) wherein each seat frame and back frame being movable relative to one another between a seating portion (Fig. 6) in which the seat frame is horizontal and the back frame is inclined with respect to the seat frame and a flat horizontal auxiliary position (Fig. 4) in which the seat frame and the back frame are flush and movable from an active horizontal position (Fig. 4) to a storage position (Fig. 3) in which the seat frame and the back frame are vertical along a wall (Fig. 3), and a supporting means (Fig. 4) with an immovable portion 70 (Fig. 4) and a movable portion (Fig. 2) supporting the frames and connected to the immovable portion through a pivot connection (Fig. 4) for movement between the active and storage positions wherein the supporting means is *capable* of pivotal connection to the wall and movement between the seating position, the auxiliary position, and the storage position, and a leg 60 (Fig. 6) of the supporting means that is movable between a supporting position projecting from the frames and supporting the frame and a non-supporting folded position. Burdett shows a seating similar to that of Stevenson wherein frames 22,24 (Fig. 2) have a supporting means (Fig. 2) with legs 44 (Fig. 2), an actuating link 46 (Fig. 2) that is a rigid member pivotally connected to the supporting means and the leg between opposite ends thereof, a

movable portion (Fig. 2) mounted to the frames, and an immovable portion (Fig. 2) connected to the rigid member wherein the actuating link is *capable* of connection at a wall (Fig. 2) for moving the leg between a supporting position (Fig. 2) and a folded position (Fig. 3) tucked along the frames as the frames are moved from an active position (Fig. 2) to a storage position (Fig. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating of Stevenson such that the frames have an actuating link that is a rigid member pivotally connected to the supporting member and the leg at opposite ends thereof, the immovable portion of the supporting means is pivotally connected to the rigid member wherein the actuating link is *capable* of connection at the wall for moving the leg between the supporting position and the folded position tucked along the frames as the frames are moved from the active position to the storage position, such as the seating disclosed in Burdett. One would have been motivated to make such a modification in view of the suggestion in Burdett that the actuating link of the frames automatically swings the legs from the active position to the storage position and vice versa.

6. Claims 1-11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson in view of Burdett as applied to claims 12-16 above, and further in view of U.S. Patent No. 5,553,920 to Meschkat et al.

Stevenson, as modified, discloses a seating that is basically the same as that recited in claims 1-11 and 17 except that seat frame is not slidably mounted on the movable portion and lacks pivotal connection to a main supporting member, as recited in the claims. See Figures 1-6 of Stevenson for the teaching that the back frame is

slidably mounted on the movable portion and flush with the seat frame when in the auxiliary position wherein the seat frame and back frame connected to a main supporting member (Fig. 2) and the back frame is movable relative to the main supporting member toward and away from the wall between the seating position and the auxiliary position that permits the main supporting member to be moved into the storage position, and a linkage means 38 (Fig. 6) connects the back frame to the main supporting member for pivotal movement with respect to the main supporting member. Meschkat et al. show a seating similar to that of Stevenson wherein the seating has a main supporting member 1 (Fig. 8), a back 120 (Fig. 8), a seating frame 10,110 (Fig. 8) slidable mounted on the main supporting member to be movable forward and backward relative to the main supporting member, and a linkage means 5 (Fig. 8) connecting the seating frame to the main supporting member for pivotal movement relative to the main supporting member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seating of Stevenson such that the seat frame is slidably mounted on the main supporting member and movable relative to the main supporting member toward and away from the wall between the seating position and the auxiliary position, and the seat frame is pivotally mounted relative to the main supporting member via the linkage means, such as the seating disclosed in Meschkat et al. One would have been motivated to make such a modification in view of the suggestion in Meschkat et al. that a seat frame that may be longitudinally and angularly adjustable to the specific needs of the user's physique to prevent the onset of fatigue and to relax the user.

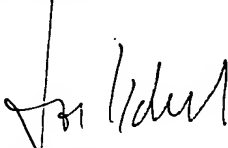
Response to Arguments

7. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joe Edell
April 29, 2005